UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Via Email

August 15, 2017

Charles W. Elliott
Elliott & Elliott
26 North Third Street
Easton, Pennsylvania 18042
charles.elliott@elliott-lawyers.com

Re: Evans Tuning, LLC ("Evans Tuning")

Dear Mr. Elliott:

Thank you for your letter of May 11, 2017, and the information you provided on behalf of Evans Tuning concerning the company's sale of certain motor vehicle engine control and other products. Besides providing us information, you articulate in your letter certain defenses or mitigating factors you ask us to consider in evaluating this case, and you provide a request that we consider Evans Tuning's ability to pay in any assessment of a penalty for this case. This letter addresses your letter in the order in which issues were raised. After addressing your letter, this letter proposes a path forward on resolution of this matter along with a request for information to assess Evans Tuning's request for a penalty reduction based upon ability to continue in business.

1. EPA Device Spreadsheet

In your letter you address additional information that you have submitted in response to my email, dated April 5, 2017, which included a spreadsheet comprising of a working list of devices sold or installed by Evans Tuning about which EPA has identified as potential defeat devices prohibited under Section 203(a)(3)(B) of the Clean Air Act ("CAA"). You provided us a modified spreadsheet from Evans Tuning that includes an additional column (labeled "Notes") containing additional information concerning the identified products that you request EPA to consider. Further, you provide some further explanation, listed 1.a through 1.h, concerning certain categories of information Evans Tuning provided. After review of the information provided, EPA response to your explanations are as follows:

a. Cobb Tuning Products Initially Identified as Containing a "Cat Delete Pipe"

We have reviewed the information you have provided and at this time we are exercising our enforcement discretion and have removed the two listed packages ("Mitsubishi Evo X Stage3 Power Package w/ Oval-Tip Exhaust w/ V3" and "Mitsubishi Evo X Stage 2 Power Package w/ V3") from our working list of potential defeat devices that may be considered for possible enforcement action against Evans Tuning. That being said, Evans Tuning in its Section 208(a) response specified for these two packages that they change, affect, modify, bypass, renders inoperative, or allows for the deletion or partial deletion of a vehicle's catalyst. As you know, Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B) of the CAA specifically prohibits:

> "...any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any [vehicle, engine, or piece of equipment], where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a [vehicle, engine, or piece of equipment] in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use."

Further, it appears from the product description in Evans Tuning's Section 208(a) Information Request response indicates that installation of the packages involves removal of the Original Equipment Manufacturer ("OEM") catalytic converter and replacing it with an aftermarket "high flow catalytic converter." Products that allow removal or replacement of an emission-related control device from a motor vehicle is a suspect product under Section 203(a)(3)(B) of the CAA. Further, Evans Tuning has not provided EPA documented, reasonable basis for knowing that the packages do not adversely affect emissions, which is information we look to assess whether enforcement action is warranted for a product that may be prohibited by Section 203(a)(3)(B). *See* Mobile Source Enforcement Memorandum 1A (June 25, 1974) ("Memo 1A").[1].

Thus, this letter does not constitute a determination of whether or not the packages identified above constitute "defeat devices" under Section 203(a)(3)(B) of the CAA. Attached with this letter is a draft Consent Agreement and Final Order ("CAFO") that we have prepared as a possible settlement document to resolve this enforcement matter. *See Attachment*. Included as an appendix is a "Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices" that we may seek Evans Tuning to agree to as part of a resolution of this enforcement matter. We strongly urge Evans Tuning to consider and apply this Compliance Plan before installing or selling these packages in the future.

b. Six Cobb Products Being Tested by an Emissions Lab for Possible Submission for Issuance of a California Air Resources Board ("CARB") Executive Order ("E.O.")

The Compliance Plan we have provided you indicates Respondent generally has a reasonable basis to know that a product does not adversely affects emission if the emissions-related element of design that is the object of the product (or the product itself) has been certified by CARB. However, at the time of the sale of the products identified, Evans Tuning has not shown any documented, reasonable basis for it to know that the products do not adversely affect emissions, as emission testing associated with the products was not done or was not complete. Thus, we are not going to defer enforcement solely on this basis.

[1] Found at http://www.epa.gov/sites/production/files/documents/tamper-memo1a.pdf.

c. Hondata S300

Due to the age of the motor vehicles involved with the sale of this product (1992 – 1995), at this time we are exercising our enforcement discretion and removing these products from our working list of potential defeat devices that may be considered for possible enforcement action against Evans Tuning. However, this letter does not constitute a determination of whether or not the packages identified above constitute "defeat devices" under Section 203(a)(3)(B) of the CAA. Issues associated with sales involving exports of products outside of the United States and sales of products to other businesses are addressed later in this letter.

d. Devices that You Indicate "Appear" to be Covered by CARB E.O. D-742

As noted above, the Compliance Plan we have provided you indicates Respondent generally has a reasonable basis to know that a product does not adversely affects emission if the emissions-related element of design that is the object of the product (or the product itself) has been certified by CARB.

We have not undertaken an extensive analysis as to whether the CARB E.O. D-742 covers the products identified by Evans Tuning that Evans Tuning actually sold and/or installed. To do so, we request that Evans Tuning supplement the vehicle make, model, and model year information already provided with the corresponding engine size (in liters) and transmission type for all sales and installations of the Hondata Flashpro part reported in response to #3 of EPA's October 11, 2016 Section 208(a) Information Request.

e. Hondata Kpro and Hondata Flashpro

Issues associated with sales involving exports of products outside of the United States and sales of products to other businesses are addressed later in this letter.

f. Haltech Patch Loom Kits

Issues associated with sales involving exports of products outside of the United States are addressed later in this letter.

g. SCT Performance Eliminator 4-Bank E-Prom Chips for EEC-IV & EEC-V

Due to the age of the motor vehicle involved with the sale of this product, at this time we are exercising our enforcement discretion and removing this product from our working list of potential defeat devices that may be considered for possible enforcement action against Evans Tuning. However, this letter does not constitute a determination of whether or not the packages identified above constitute "defeat devices" under Section 203(a)(3)(B) of the CAA.

2. **Compilation of Invoices for International Sales**

Regarding sales of products to customers in Canada, Mexico, and Kuwait, for which you provided sales invoices for our review, at this time we are exercising our enforcement discretion and removing all such sales from our working list of potential defeat devices that may be considered for possible enforcement action against Evans Tuning. However, this letter does not does not constitute a determination of

whether or not the underlying products constitute "defeat devices" under Section 203(a)(3)(B) of the CAA. To afford similar treatment for Evans Tuning's two January 2, 2014 sales of Haltech PS2000 Patch Loom Kits for 1993-1998 Toyota Supra, please provide documentation, such as an invoice, supporting your claim that these sales were to an international client.

3. Evans Tuning Standard Terms and Conditions

With respect to your contention that your client's conduct qualifies for a "racing vehicle" or "off-road vehicle" exemption under the Act, as a legal matter, the CAA provides a "competition only" exemption for "nonroad vehicles" and "nonroad engines" that are used solely for competition. CAA § 216(10)-(11); 42 U.S.C. § 7550(10)-(11). The EPA has implemented regulations describing how to exempt from CAA requirements nonroad vehicles and engines used solely for competition. 40 C.F.R. § 1068.235. These regulations explicitly do not apply to motor vehicles and motor vehicle engines such as those for which Evans sold or installed the tuning products we have identified as compliance issues. 40 C.F.R. § 85.1701(a)(1).

In your letter, you request that we provide you with interpretive guidance or memoranda that explains EPA's interpretation of the Act concerning tampering and "intended use" of a motor vehicle. In 1974, the organization which later became the Specialty Equipment Market Association ("SEMA") submitted comments to the EPA on a proposed rulemaking including a regulatory definition of "motor vehicle," and asked the EPA to exempt from the definition of "motor vehicle" at 40 C.F.R. § 85.1703 certain vehicles "based solely on the intended use by the purchaser." In the preamble to the rule promulgating the regulatory definition of "motor vehicle," the EPA responded to the request as follows:

> The recommendation . . . [to exclude vehicles of limited production intended for hobby use] was not accepted because such exclusion would be based upon the intended use by the purchaser rather than the capability of the vehicles. *The Agency views a policy of exclusion based upon owner intent to be virtually unmanageable and inconsistent with the Act because vehicles with on-road, off-road capabilities are typically operated in both situations.* . . . A vehicle's capability is a more workable, objective standard than its intended or designed-for use, which is dependent upon the manufacturer's subjective determination of the ultimate use to which the vehicle will be put.[2]

You provide with your letter a copy of what you indicate Evans Tuning uses as a contract with the customer that the customer must sign prior to Evans Tuning conducting tuning and other installation work. Among the terms of the contract is a typed customer acknowledgement that he or she intends to use the vehicle for "racing or off-road purposes only." You indicate that this standard contract is "relevant to the question of whether Evans Tuning had the requisite scienter under 42 U.S.C. § 7522(a)(3)."

First, the use of this standard contract by Evans Tuning has no relevance to whether Evans Tuning's conduct met the "knows or has reason to know" element under Section 203(a)(3)(B) of the Act. Under Section 203(a)(3)(B), the issue is whether Evans Tuning knew or had reason to know that its products

---

[2] Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines, 39 Fed. Reg. 32609, 32609 (Sept. 10, 1974) *emphasis added.*

were offered for sale, sold, or installed to bypass, defeat, or render inoperative elements of design that control emissions of regulated air pollutants. By virtue of its response to EPA's Section 208(a) Information Request, Evans Tuning has clearly acknowledged the products at issue do bypass, defeat, or render inoperative certain emission control elements of design. Evans Tuning can't use a piece of paper to negate the fact it knows or has reason to know its products have this effect on motor vehicles.

Our application of the Act to this matter is supported by the legislative history of the 1990 Amendment to the Act. In the Senate report that accompanied the Clean Air Act Amendments of 1990, in which the Senate wrote that section 203(a)(3)(B) was being added because

> [Under the prior version of Section 203 of the Act] EPA must show that the manufacturer or sale of a defeat device is a violation [of Section 203] by proving that such an activity causes tampering by a regulated party...Rather than require such an indirect and cumbersome method of proof, a new section 203(a)(3(B) has been added to the Act to clearly prohibit the manufacture, sale, or offering for sale of [defeat] devices where it is known or should be known that they will be used for tampering."[3]

Thus, Congress clearly intended that "knows or should know" under Section 203(a)(3)(B) does not require EPA to prove that the end-use of a defeat device actually tampered a motor vehicle's emission controls to demonstrate liability of the defeat device provision. Further, Congress intended that EPA need not prove how the defeat device was actually used by the end-user to impose the defeat device prohibition. If the manufacturer, installer, or seller of the defeat device knows or should know the defeat device is capable of bypassing, defeating, or rendering inoperative a vehicle's element of design for emission control when used, the sale, installation, or manufacture of such device is clearly prohibited. The actions of the end-user of a defeat device are irrelevant to establishing liability of the seller, installer, or manufacturer of that defeat device under Section 203(a)(3)(B) of the Act.

Case law also supports this reading of "knows or should know" under Section 203(a)(3)(B) of the Act. In *United States v. Economy Muffler & Tire Center, Inc.*[4], an automobile repair shop was charged with violations of the pre-1990 incarnation of Section 203(a) tampering prohibition under the Act for replacing three-way catalytic converters on motor vehicles with two-way catalytic converters. The pre-1990 version of Section 203(a)(3)(B) prohibited "any person engaged in the business of repairing [or] servicing...motor vehicles" from "knowingly... removing or render[ing] inoperative any device or element of design installed on or in a motor vehicle...in compliance with regulations under this title...."[5] In ruling for the United States on partial summary judgment, the court rejected the shop's claim that it did not "knowingly" violate the Act because its employees were not aware of the requirements of the Act with respect to catalytic converters. The court held that the term "knowingly," as applied in Section 203(a)(3)(B) "modifies the verbs 'remove' and 'render' and applies not to the law but the offensive act. The court further held that this reading is consistent with the well-settled principle that the "inclusion of the term 'knowingly' in an environmental statute does not 'carve out an exception to the general rule that ignorance of the law is no excuse.'"[6]

In the post-1990 Section 203(a)(3)(B), the phrase "knows or should know" modifies the verbs "offered . . . or installed for such use or put to such use," with "such use" referring to the "principal effect" of

---

[3] S. Rep. No. 101-228, at 124 (1989).

[4] *United States v. Economy Muffler & Tire Center, Inc.*, 762 F. Supp. 1242 (E.D. Va. 1991).

[5] Id. at 1244.

[6] *See Id.* at 1245 (quoting *United States v. Int'l Minerals & Chem. Corp.*, 402 U.S. 558, 563 (1971)).

bypassing, defeating, or rendering inoperative any motor vehicle emission control device or element of design. Thus, consistent with *Economy Muffler*, a sale, manufacture, or installation of a defeat device that one knows or should know can tamper a motor vehicle is the offensive act prohibited under the statute, and the intended purpose for or end-use of the device are irrelevant.

Moreover, it should be noted that it is EPA's experience that mere point-of-sale disclaimers, waivers, and similar writings expressing "intent" are inherently unreliable. Such "representations" require no proof by the signatories that their "intentions" are true, are not backed by any verification process, and generally are used by sellers in an attempt to evade the defeat device prohibition by pushing liability on their buyers.

In contradiction to the contention that liability has not attached in this case, Evans' website publishes customer testimonials (at http://www.evans-tuning.com/reviews) that provide evidence that vehicles modified by Evans Tuning are being driven on public roads and are not dedicated solely for competition or off-road use. Some examples are as follows:

> *Nico P - December 21, 2016*
>
> *There is nothing like the drive home after a fresh tune from Jeff. You know your engine is safe and it will scream like never before.*
>
> *George S - September 16, 2016*
>
> *I have total confidence in their ability to tune Honda engines; there is no substitute for knowledge, experience, and good equipment. Top that off with the friendly atmosphere; they are more than willing to answer questions and give advice. We have a street driven sports car and the tuning is perfect. It pulls hard through the entire RPM range, and behaves perfectly as you modulate the throttle through the turns.*

There is also discussion in customer testimonials on the Evans' website concerning Evans' aftermarket ECM programmers providing improved fuel economy, a selling point for those using motor vehicles on a street or highway, which further indicates that Evans is modifying vehicles for use on public roads. For example, one testimonial states as follows:

> *Garrett K - March 30, 2016*
>
> *Car runs great. Better gas milage [sic]. Everything seems to be in order. The service I received was very professional. I am happy with my tune! Thank you for being a great tuner. I will refer you to my friends in the future.*

Also, it is notable that there is no discussion or advertisement we could find on Evans Tuning's website that would leave one to believe that it services racing-only or off-road-only vehicles rather than vehicles owned by the public at large. Thus, we don't find the assertion implied by your letter credible that Evans Tuning's customers that have received the products at issue are all using their vehicles solely for competition or off-road use only.

4. **Copies of California Air Resources Board Executive Orders**

Please see discussion regarding No. 1.b above.

Other Mitigating Factors or Matters of Defense

In your letter, you have provided an explanation from Mr. Evans of the principal effect and functionality of the products we have identified to you in our working list of potential defeat devices. We note that we have prepared our working list of potential defeat devices based upon Evans Tuning's responses to our CAA Section 208(a) Information Request. In those responses, for each of the products identified on our working list, Evans Tuning answered "yes" to one or more of the following questions:

- Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's exhaust gas recirculation ("EGR").

- Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's catalyst.

- Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of a vehicle's on-board diagnostics ("OBD").

- Whether the part or component changes, affects, modifies, bypasses, renders inoperative, or allows for the deletion or partial deletion of sensors, signals, or records related to the diesel particulate filter ("DPF"), EGR, catalyst, OBD, or selective catalytic reduction ("SCR").

- Whether the part or component can be programed to modify engine operating or emission control parameters or OBD functions including, but not limited to, those parameters sensed or controlled by the electronic control module ("ECM");

- Whether the part or component has the effect of permanently or temporarily changing, affecting, bypassing, defeating, or rendering inoperative any emission control device, element of design, or emission related part;

- Whether the part or component is capable of disabling or allowing the removal of the EGR without illuminating a Malfunction Indicator Light ("MIL") or prompting any on-board Diagnostic Trouble Code ("DTC");

- Whether the product is capable of disabling or allowing the removal of the EGR without any engine derating;

- Whether the product is capable of altering fuel timing maps within engine electronic calibrations; and

- Whether the product is capable of bypassing or altering parameters to prevent DTCs or MILs from being recorded or illuminated.

We are very concerned regarding the effects of Evans Tuning's products on critical elements of design of motor vehicles that are part of vehicles' certified emission control configuration under the Act. We understand Mr. Evans' explanation of the functionality of his product as intended to argue that the products primary purpose is not to affect a vehicle's emissions. However, there is no basis to read "principal effect" as meaning "primary purpose" when applying Section 203(a)(3)(B) of the Act. Rather, the plain meaning of the phrase "a principal effect" under Section 203(a)(3)(B) indicates that the Act

prohibits parts or components that have the "effect" of bypassing or defeating emissions controls, without regard to the intended purpose or objective of doing so. A component that disables or renders inoperative an EGR or catalytic converter, alters fuel timing maps (a key aspect of a certified motor vehicle's compliance with emission standards), or bypasses or renders inoperative elements of a vehicle's OBD system is a prohibited defeat device because it has "a principal effect" of bypassing, defeating, or rendering operative an emissions control device, even if the purpose of the product is to increase engine efficiency.

The legislative history of the defeat device prohibition supports the above interpretation. Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), was added to the Act as part of the Clean Air Act Amendments of 1990. The bill was introduced in the Senate in 1989 as 101 S. 1630 and a companion bill was introduced into the House of Representatives in 1989 as 101 H.R. 3030.[7] Each bill included the same language for section 203(a)(3)(B), prohibiting products with "a principal effect" of defeating emissions controls.[8] This language differed from another bill introduced into the House earlier in 1989, H.R. 2950, which would have prohibited products with "a principal use" of defeating emissions controls.[9]

In a letter responding to questions posed by Representative John D. Dingell, Chairman of the House Subcommittee on Oversight and Investigations, EPA Administrator William K. Reilly explained that the change from H.R. 2950's "principal use" to H.R. 3030's "principal effect" would simplify "the burden of proof to one involving the physical effect of a part rather than one requiring showing how a part is actually used."[10] The Senate report accompanying the final bill, 101 S. 1630, went further, stating:

> The bill also makes illegal the manufacture, sale, or offering for sale of so-called "defeat devices" that render inoperative elements of a vehicle emission control system. Such devices include "test tubes"[11] used to replace catalytic converters on vehicles. They also include aftermarket computer programmable read-only memory chips that enrich the air/fuel mixture, increasing emissions, or bypass emission control devices.[12]

Given the low burden of proof called for in S. 1630 and H.R. 3030, and repeated statements in the legislative history of the Clean Air Act Amendments advocating that the manufacture and sale of defeat devices should be illegal, it appears that Congress's intent was to prohibit defeat devices in all forms.[13]

---

[7] All Bill Information (Except Text) for S.1630 - Clean Air Act Amendments of 1990 (*available at* https://www.congress.gov/bill/101st-congress/senate-bill/1630/all-info (last visited April 5, 2017)).
[8] S. 1630, 101st Cong. § 228 (1989); H.R. 3030, 101st Cong. § 223 (1989).
[9] H.R. 2950, 101st Cong. § 1 (1989).
[10] Clean Air Act Reauthorization (Part 3): Hearings Before the Subcomm. on Energy and Power of the H. Comm. on Energy and Commerce, 101st Cong. 581, 617 (1989) (*available at* https://catalog.hathitrust.org/Record/007606154 (last visited April 5, 2017)).
[11] So called "test tubes" are described in the Seventh Circuit's opinion in *Ced's Inc. v. United States Environmental Protection Agency*, 745 F.2d 1092, 1094 (7th Cir. 1984), which is referenced on page 124 of Senate Report 101-228. A test tube was "a length of hollow metal pipe shaped and fitted to replace the catalytic converter in an automobile exhaust system." *Ced's Inc.*, 745 at 1094. The Invidia "test pipes" sold by Evans Tuning are the contemporary equivalents of the test tubes described by the Seventh Circuit and condemned by the Senate.
[12] S. Rep. No. 101-228, at 124 (1989).
[13] *See id.* (supporting prohibition of defeat devices); H.R. Rep. No. 101-490, at 314 (describing liability for "manufacturers or sellers of devices used to defeat or impair emission controls"); Clean Air Act Reauthorization (Part 3): Hearings Before the Subcomm. on Energy and Power of the H. Comm. on Energy and Commerce, 101st Cong. 581, 617 (1989) (*available at* https://catalog.hathitrust.org/Record/007606154 (last visited April 5, 2017)) (comparing H.R. 2950 to H.R. 3030).

Mr. Evans further indicate that he believes some of his products actually achieve emission reductions, but in response to the Section 208(a) Information Request Evans Tuning has not provided any emission testing data to support these claims. Relying upon Mr. Evans assurances that such product achieve emission reductions without demonstrable evidence would defeat the purpose of the robust vehicle emission standard certification process established under direction of the Act.

Historically, EPA has held that modified a motor vehicle's certified emission control configuration be justified only through such demonstrable evidence that such conduct won't increase emissions The EPA policy regarding compliance with these CAA prohibitions is outlined in Memo 1A. Memo 1A allows the sale and use of aftermarket products when an individual or company has a "reasonable basis" to believe that their actions and products do not increase emissions. Reasonable basis is defined as: (1) no increase in emissions for equivalent, but non-OEM parts; or (2) vehicles or engines still meet the emissions standards when tested on the Federal Test Procedure ("FTP") for add-on products or out-of-specification adjustments. A manufacturer or seller of aftermarket products should maintain records of emission test results from tests conducted in accordance with EPA's FTP, using the correct test cycle, to demonstrate that essentially similar vehicles meet the standards for the remainder of the vehicles' useful lives using the product in question.

You additionally assert in this portion of your letter that "principal effect" under Section 203(a)(3)(B) should depend upon how the product or component sold or installed is actually used by the end-user, and you further argue that many of Evans Tuning's sales are to business entities and not the end-user, so Evans Tuning would not have the requisite "scienter" under Section 203(a)(3)(B) under the Act. As I had explained above in response to Evans Tuning's use of a "standard conditions and terms" contract to avoid defeat device liability, the plain language of Section 203(a)(3)(B) and legislative history clearly provide that the scope of the defeat device provision extends to business-to-business sales and end-user application of the device is not relevant to liability.

Ability-to-Pay

Your letter requests that we consider Evans Tuning's ability to continue in business when assessing a penalty in this matter.

We will conduct an ability-to-pay assessment based upon the information Evans Tuning submits in conjunction with this letter to determine whether Evans Tuning's ability-to-pay claim is justified.

EPA's initial list of items needed to conduct an ability-to-pay claim assessment are as follows:

1. Provide true, accurate and complete copies of signed and dated U.S. corporate income tax returns of Evans Tuning for 2014 through 2016, including all associated schedules and attachments.

2. To the extent such documents are already prepared, provide true, accurate and complete copies of the complete financial statements prepared on behalf of Evans Tuning by an outside accountant, including all balance sheets, statements of operations, statements of retained earnings, statements of cash flows and all notes to each financial statement, for the three most recent fiscal years. Submit complete copies of all financial statements, including the accontant's cover letter and all notes to the financial statements.

3. Provide true, accurate and complete copies of internal financial statements prepared by Evans Tuning, including all balance sheets, statements of operations, statements of retained earnings, statements of cash flows, analysis of performance relative to budget or forecast and all notes to each financial statement, for all months/quarters which have occurred between the most recent fiscal year tax return and financial statement and the current date.

4. Provide copies of all financial institution statements regarding Evans Tuning's banking accounts or other funds held on behalf of Evans Tuning, covering the last three months.

5. To the extent not already provided in response to the CAA Section 208 Information Request, a list of any affiliates, subsidiaries or parent organizations of Evans Tuning.

Note that we may need additional information if, after review of the above information, we have additional questions or find that the information submitted does not provide a complete picture of Evans Tuning's financial status.

The information provided must be submitted under cover letter with the following certification signed by an authorized corporate officer for each of the companies:

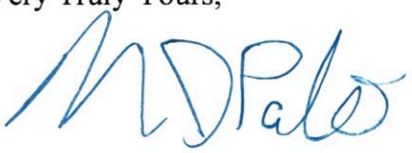
> "I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 113(c)(2) of the Clean Air Act, 42 U.S.C. § 7413(c)(2), and 18 U.S.C. §§ 1001 and 1341."

Note that the Evans Tuning is entitled to assert a business confidentiality claim covering all or part of the information submitted in accordance with the procedures described in the Confidentiality of Business Information ("CBI") regulations, 40 C.F.R. Part 2, Subpart B. Please follow the procedures outlined in the CAA Section 208 Information Request for submitting information claimed CBI to EPA.

For purposes of expediting resolution of this matter, we request that Evans Tuning provide the information requested in this letter by September 7, 2017. Please let me know if Evans Tuning would not be able to meet this date so that we can discuss an appropriate timeframe for Evans Tuning to submit the requested information. In addition, please provide any comments you or Evans Tuning may have after you have had time to review the attached draft CAFO.

If you have any questions, please let me know at (202) 564-8894 or palermo.mark@epa.gov. Thanks for the efforts you have made to date to bring this important enforcement matter to resolution.

Very Truly Yours,



Mark J. Palermo
Attorney-Advisor
U.S. EPA Office of Civil Enforcement
Air Enforcement Division

Attachment